

December 6, 2001

David P. Boergers, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

Re: Electricity Market Design and Structure
Docket No. RM01-12-000 and RT01-99-000

Dear Secretary Boergers:

Enclosed please find for e-filing the Comments on behalf of the Northeast Consumer Advocates, in the above-referenced proceeding. Copies of this document have been served upon all parties designated on the Commission's official service list, in accordance with Rule 2010 of the Commission's Rules of Practice and Procedure.

Very truly yours,

Denise C. Goulet
Senior Assistant Consumer Advocate

Enclosure
cc: All parties

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Electricity Market Design and Structure : Docket No. RM01-12-000

Regional Transmission Organization : Docket No. RT01-99-000

COMMENTS OF THE NORTHEAST CONSUMER ADVOCATE OFFICES

Pursuant to the Commission's October 5, 2001 "Notice of Workshop Organization and Agenda" and its November 20, 2001 "Notice Inviting Comments on Wholesale Market Activities" in the above-captioned dockets, the Northeast Consumer Advocate Offices¹ hereby submit their Comments with respect to the issues addressed during the panel discussions and in these orders. These comments address the following issues relating to Regional Transmission Organization ("RTO") development: a) governance and stakeholder process; b) transmission planning; c) market monitoring; and d) the proper division of functions, if any, between RTOs and Independent Transmission Companies ("ITCs").

¹ Northeast Consumer Advocates is an ad hoc coalition of state government consumer advocate offices, Attorneys General, and not for profit consumer advocates in the region covered by the proposed Northeast RTO. These include: Pennsylvania Office of Consumer Advocate, Maryland Office of People's Counsel, New Jersey Division of Ratepayer Advocate, Delaware Division of Public Advocate, Office of People's Counsel of the District of Columbia, Maine Public Advocate, New Hampshire Office of the Consumer Advocate, Connecticut Office of Consumer Counsel and Public Utility Law Project of New York, Inc.

Introduction

Northeast Consumer Advocates are state offices of consumer advocate responsible for representing the interests of consumers in their respective states on matters of utility regulation. Many of these states have restructured their electricity markets to allow consumers to choose their energy supplier. In many states that have not restructured their electricity markets, customers are or will soon be exposed to wholesale prices that are market-based.

In order for competitive retail markets to succeed, the existence of competitive wholesale energy markets is critical. The Commission envisions that these wholesale markets will be operated by RTOs. The Commission has announced in this docket an intent to issue one or more rulemaking proceedings aimed at standardizing electricity market design and structure for Regional Transmission Organizations, as well as to more clearly define the criteria for determining whether specific RTO proposals satisfy the four characteristics and eight functions specified in Order No. 2000. Northeast Consumer Advocates applaud the Commission's pro-active approach to reducing uncertainty, promoting consistent market rules and avoiding potential protracted delays in RTO development.

At the outset, Northeast Consumer Advocates note that their comments do not address cost benefit analysis related issues, specific RTO scope and configuration issues or the issue of whether four RTOs for the nation is the correct number. Such issues are more appropriately addressed in specific RTO proposals and proceedings. The issues before the Commission in these Comments are generic format issues: whether to require standardization in RTO market structure and design, and in RTO compliance with the Order No. 2000 characteristics and functions. Northeast Consumer Advocates support

that effort and urge the Commission to move forward expeditiously with this rulemaking proceeding.

Governance

The issue of governance over the development of RTOs was not extensively discussed during the RTO workshops. Nevertheless, the Northeast Consumer Advocates believe that governance is a critical issue in the development of RTOs. Furthermore, we believe that clarification of the governance principles and the independence requirement of Order 2000 will remove uncertainty that is impeding RTO development. The Northeast Consumer Advocates wish to emphasize the importance of having an RTO governance system that is a coherent whole. The ultimate operating effectiveness of the RTO will be compromised at every turn unless the design of governance is internally consistent and operationally logical. We also strongly support stable and predictable decision-making within an RTO structure while still assuring full and fair consideration of stakeholder views. We offer a set of proposed principles that we believe will guarantee these results.

The Staff Summary notes that the State Commissions expressed concerns that the reliance on consensus solutions does not necessarily benefit the retail consumer.² We agree. The Northeast Consumer Advocates work in a culture that favors the concept of settlement. Our states have benefited from our ability to arrive at consensus regarding contentious issues among widely divided parties. This can promote regulatory and, ideally, market efficiency. However, the creation of new markets and an unprecedented scope of oversight of reliability will not be achieved through consensus as practiced in the Commission's recent mediation proceedings. The fact that coalitions of parties in the

² Staff Summary of Discussions, Docket No. RM01-12-00, p. 13.

mediation proceeding agreed to one or another proposal sometimes reflects, in our opinion, no more than an agreement to fight out important issues at a later date. Worse yet, these positions seem at times to be cobbled together from several parties' favorite positions. This approach does not reflect a logical whole that will ever be capable of implementation, much less effective operation.

That is why we urge the Commission to focus on governance and the stakeholder process. The Northeast Consumer Advocates take the view that governance is the key function for the Commission's scrutiny. Governance is not technology dependent. Governance is, essentially, the policy domain in which the Commission can make reasoned decisions. Supported by authoritative, independent governance, the RTO Board itself will resolve the myriad of technical options. On this basis the Commission can have confidence that the implementation of the RTO will be managed by the RTO Board in a way that minimizes the need for Commission intervention.

The Independent Board

We believe that a genuinely independent RTO Board is the strongest guarantee of effective management of the developing RTO. This provides a level of consistent development that cannot otherwise be achieved. However, the breadth and complexity of this task requires both experience and technical expertise.

We support the current approach in use at PJM and ISO New England, namely, voting by stakeholders on a slate of independent, qualified Board candidates. This gives stakeholders a direct involvement in governance, keeping in mind that, in a typical corporate setting, stockholders or LLC members would elect the Board.

We support the creation of a fully independent RTO Board early in the formation process. This approach eliminates the need for Commission proceedings, such as

appointment of a Settlement Judge or mediator, to provide constant supervision to the RTO formation process and reduces the need for the Commission itself to decide technical details of RTO construction.

We do not agree with the notion of two boards with one for the transition period to be replaced by a second, permanent board when the transition is over. Replacing a Board that has overseen the transition, with all the experience that task will impart to Board members, is risky, unnecessary, and inefficient. To do so would put an inexperienced Board in place just as full operation of the RTO begins.

It is important to strike a balance in the tenure of Board members. As noted above, independence is a critical aspect of Board membership. Also, the issues facing this Board are complex. These factors argue for a standard tenure that extends longer than a few years. However, a tenure that is too long would be inappropriate given the fact that technology and markets are evolving rapidly, demanding that the vigor of Board member participation must be preserved. Thus, we suggest a 5-year term of office for Board members, with the option of re-election for a second term. We also feel that Board operations will be disrupted least if the terms of members are staggered.

The Chief Executive of the RTO will play the pivotal role in the formation of the new system. This person should be selected by the Board as soon as possible after the Board is constituted. Once in place, the RTO's management team, infrastructure and staff can develop as needed and without intensive Commission involvement.

The Commission has repeatedly emphasized that RTO decision-making must be independent from undue stakeholder influence. Accordingly, the Board should be invested with exclusive rights to file with the Commission under Section 205 of the Federal Power Act ("FPA"), 16 U.S.C. § 824d. The Market Monitor, who we anticipate

will be housed within the RTO, should have explicit filing authority under Section 206 of the Federal Power Act (“FPA”), 16 U.S.C. § 824e solely with respect to market monitoring and market rules. The New Hampshire Consumer Advocate Office and the New Jersey Division of Ratepayer Advocate support even stronger authority for the MMU and urge the Commission to provide Section 205 filing rights to the MMU as well as to the Board.

The RTO, it must be remembered, will be a public utility with control of critical reliability and market functions. We have reservations about the feasibility of combining the responsibility for evenhanded management of these functions within a for-profit organization. Indeed, RTO profits can probably be maximized through clever management of transmission congestion. Also, a for-profit organization might have a bias in the selection of generation, transmission, or demand solutions to congestion problems that could result in inefficiencies in the market. These possibilities lead us to urge that Commission to institute the RTO as a non-profit corporation.

The legitimacy of Board actions will be protected if stakeholders feel that they are fully informed. This begins with Board meetings. We urge that all meetings of the RTO Board be conducted as open meetings with Executive Sessions only in the case of personnel matters or matters governed by a confidentiality privilege that is recognized in courts of federal jurisdiction. We also recommend that the Board consult with stakeholder groups on a regular basis at locations rotating around the RTO region.

The publication of a formal annual report will establish a record from which stakeholders and others can acquire critical information about how well the RTO is doing. The Board should publish an annual report identifying its current financial status,

budgets and expenditures, performance of operational responsibilities, and other information that adequately conveys the operational and financial condition of the RTO.

Stakeholder Process

We support a fully independent RTO Board because we concur with the Commission that effective, unbiased operations will be most likely if stakeholders do not control RTO functions. However, we urgently request that the Commission ensure meaningful, extensive stakeholder involvement in the Board's deliberations. This must mean that the Board frequently interacts with stakeholders through a structured process, that the Board explains its actions, and that the Board deals substantively with stakeholder proposals. These things are necessary to establish and then preserve the legitimacy of the RTO's business. This will also produce substantive stakeholder contributions to the rules and systems upon which the RTO will operate.

The Commission has recognized that it is appropriate that all stakeholders, including those who do not transact business with the RTO, be directly involved in the activities of the RTO. State offices that represent consumers have a particular interest because they are the statutory representatives of consumers before utility regulatory bodies. The Commission has also recognized that these entities, as government agencies, have certain limits on how they can participate in ISOs and, by implication, RTOs. First, state offices that represent consumers are generally funded at conservative levels and under statutes or budgetary regulations that do not envision expenditures of large amounts of money on memberships. Second, state offices that represent consumers simply cannot assume liability that might also attach to other state agencies and revenues. Therefore, it is appropriate to continue the process under which state offices that represent consumers pay membership dues at a reduced level and incur no legal liability.

We believe that this should also apply to any stakeholder that does not buy, sell or transmit power in wholesale markets.

Stakeholders must have the opportunity to fully air their views before the Board. In the absence of consensus, and recognizing the enormous diversity of stakeholders across an RTO, it is important that both majority and minority views are presented. Accordingly, we urge that the RTO Board be obligated to respond with written comments to any stakeholder proposal or recommendation that receives a vote, at a general meeting of the members, which is either greater than 20% of sector-weighted votes or is at least a 2/3 majority within any single sector.

Such responses must be timely and substantive. We believe that any report should be transmitted to the members electronically no later than twenty days following the stakeholder vote. For any FERC filing related to the subject matter of a stakeholder recommendation, the report should be transmitted electronically at the time of the filing.

As a further guarantee of Board consultation with stakeholders, the Board, except in emergencies, should be required to consider the comments and recommendations of stakeholders before making any filing with the Commission under Section 205. This will ensure a full airing of issues, permitting the Board to make filings based on the best possible foundation. It will also encourage the development of consensus in cases where stakeholders might file protests with the Commission. The types of emergency conditions that would allow the Board to make a Section 205 filing without prior consideration of stakeholder views should be specifically set forth in the RTO's governance documents that are approved by this Commission.

The issue as to whether stakeholders should have a veto over Board Section 205 filings is controversial and the state consumer advocate offices that are signatories to these comments have differing views on this issue. Some offices would urge the commission to prohibit the RTO from making Section 205 filings when a 70% sector majority (sector voting is described below) votes in opposition to the filing. This limitation would not restrict the Board from making Section 206 filings as it deemed necessary. Those supporting this position believe that stakeholder rights to veto Board action to make Section 205 filings where 30% or less of the stakeholders support the filing is critical to ensure Board accountability to stakeholders. Because of the differences in burden of proof under Section 205 and Section 206 of the Federal Power Act, these state consumer advocate offices believe that a Board filing that has less than 30% of the stakeholders behind it should not receive the benefit of the lower burden of proof associated with a Section 205 filing.

Other state consumer advocate offices would urge the Commission to provide exclusive Section 205 filing rights to the Board unfettered by stakeholder veto rights. These offices believe that RTO Boards are accountable to stakeholders by virtue of the Commission's regulations governing RTO operations and note the Commission's recent rejection of stakeholder veto rights in the ISO - New England and New York ISO RTO filings.³ They further believe that a truly independent Board would not ignore stakeholder views and would instead attempt to fashion consensus filings to the maximum extent practicable. Should a Board become unaccountable to its stakeholders, the offices supporting this view believe that the proper remedy would be a Section 206

³ See *New York Independent System Operator, et al.*, Docket No. RT01-95-000, "Order on RTO Compliance Filing", 96 FERC ¶ 61,059 (July 12, 2001); *Bangor Hydro-Electric Company, et al.*, Docket No. RT01-86-000, "Order Granting in Part and Denying in Part, Petition for Declaratory Order", 96 FERC ¶ 61,063 (July 12, 2001).

complaint into the on-going independence of that Board rather than relegating the Board to Section 206 filings.

Regardless of which position the Commission adopts, all state consumer advocate offices supporting these comments believe that the end-state goal is to ensure that an RTO is governed by a truly independent Board that is accountable to stakeholders within its boundaries.

The RTOs will be a work in progress for several years and, thereafter, will have a very wide geographic scope involving complex operations. We see this as arguing for regular interactions between the Board and stakeholders. Specifically, we urge that RTO Boards hold regularly scheduled meetings throughout the RTO region. Also, geographic scope will impose significant expenses for stakeholders who participate in committees, working groups, etc. Our experience is that many smaller parties, including most consumer advocate offices, cannot routinely attend meetings that involve significant travel expenses. This can be overcome through a formal process of proxy representation that permits positions to be advanced and votes to be cast for absent parties. Indeed, the precedent for this exists as individuals frequently represent multiple clients in ISO committees.

We have carefully considered how stakeholders can best carry out their advisory function to the Board and elect Board members. We continue to see a sector organization as effective both for organizing generally similar interests and for reflecting those interests to the Board. Therefore, we support the proposal that stakeholders be organized into five sectors: transmission owners, marketers/brokers, generation owners, distribution companies not otherwise represented, and end-users (including business customers, government agencies and consumer advocates). However, to protect against

the operation of sectors under the control of only a handful of members, we urge that no sector become active until five stakeholders have applied and been accepted for sector membership.

We believe that stakeholder votes should be advisory to the Board with one exception, the election of a director. As noted above, some of the Northeast Consumer Advocates would also make an exception for the limitation on the Board's ability to make a Section 205 filing if the filing is opposed by a 70% sector vote of the stakeholders.

Having committed to a sector organization, we see a number of issues that must be resolved. First, each stakeholder should take membership within the sector that most closely fits its core business. Without this requirement, it is possible for stakeholders to strategically choose their sector in order to broaden control of a particular set of interests outside their natural sector. As a simple example, some generators in PJM and ISO New England, by virtue of having offices in the region, have sought to vote in the end use sector. Such action dilutes the ability of true end-users to represent end-user views. Second, the rules for voting should permit each stakeholder to vote their interests and to have votes equitably reflect those interests within the sector. Thus, each stakeholder should have one vote. Recognizing that some stakeholders are subsidiaries or affiliates of others, there also is a potential that one company could control multiple votes. Therefore, we believe that affiliated companies should collectively receive one vote.

Transmission Planning

The Northeast Consumer Advocates believe that the following principles are critical for the RTO to carry out the transmission planning function assigned to RTOs in Order 2000.

There should be a single expansion plan for the entire region that is supplied as a single document to all stakeholders. The process of transmission planning must be fully transparent to all stakeholders with their ability to participate throughout the expansion planning. Transmission expansion planning must be under the independent control of, and conducted by, the RTO with advice from all stakeholders. The RTO must have the authority to require transmission owners and generation owners to supply data needed for planning.

RTO expansion planning must integrate reliability, operational control, and market considerations and consider state-level regulatory and legal issues. Conflicts between reliability or operational control and market considerations must be resolved in a manner that maintains reliability and operational control. RTO transmission planning must also consider long-term reliability considerations, such as the capability of gas pipeline systems.

As part of the transmission expansion planning process the RTO must analyze the economic impact of transmission congestion relative to the cost of adding new transmission facilities or equipment to resolve the constraints causing the congestion. The RTO must evaluate the cost effectiveness of all options for resolving transmission constraints, including the availability of generation, merchant transmission or demand response solutions. After such an evaluation, the RTO must decide which transmission constraints can and should be cost effectively resolved by the addition of new transmission facilities or equipment. The cost of transmission investments directed by the RTO should be recovered through transmission rates.

The RTO must have the ability to direct the construction of transmission facilities or equipment and implement demand-side market mechanisms as necessary for

reliability, operational control, or economic efficiency. The cost of facilities or equipment built at the direction of the RTO for purposes of economic efficiency should be recovered on a cost basis with the costs allocated to the areas benefiting from relief of the congestion.

Generation and merchant transmission interconnection studies must be under the independent control of and conducted by the RTO with transmission owner and generation owner involvement limited to provision of information. Finally, we believe that there should be a single generation and merchant transmission interconnection standard throughout the RTO.

Market Monitoring

The Northeast Consumer Advocates recommend that the following principles should be applied to ensure compliance with the market monitoring function under Order 2000.

There should be a market monitoring unit ("MMU") within the RTO that reports to the chief executive officer of the RTO. We note that the Staff Summary of Discussions prepared in this docket states at page 16 that "Participants agreed that a MMU should be independent from the RTO in whose region it monitors market activity ..." This summary does not fully capture the position of at least one of those participants, Mr. Sonny Popowsky, the Consumer Advocate for the Commonwealth of Pennsylvania, whose office is one of the offices supporting these comments. It is the position of the Pa. OCA, indeed of the Northeast Consumer Advocates submitting these comments, that the MMU should be housed within the RTO. However, the MMU should have authority that is independent of the RTO for purposes of preparing and submitting reports and taking corrective action. It is not necessary or even advisable to have the MMU completely

separate from the RTO. In fact, both Mr. Popowsky and Dr. Anjali Sheffrin, the Director of the Market Analysis division for the California ISO, stated that the MMU function should be physically housed within the RTO in order to ensure access to the real time data needed to effectively monitor the markets. Both elements, institutional independence and physical proximity, will help ensure successful MMU functioning. Consequently, Northeast Consumer Advocates urge the Commission to adopt this approach in any rulemaking stemming from these comments.

To maintain the independence of the MMU, the market monitor, who heads the MMU, should only be dismissed for failure to perform adequately and with the approval of the Commission. The MMU may be centrally located but should have a presence at the operations center for each control area.

The MMU should have a mandate to ensure that all RTO markets are efficient and workably competitive in real-time and in the long-term. The MMU should monitor all RTO markets and follow trends in all related markets including markets outside the region.

The RTO should also contract with a market monitoring advisor, who must not be an employee of the RTO. The market monitoring advisor should report directly to the Board. The market monitoring advisor should provide a “second opinion” to the Board on market function, market-design issues, and proposed rule changes. The MMU should be funded at a level that permits it to effectively complete its work. The MMU should have access to all data available to, or generated by, the RTO as part of its operations. The MMU should also have the authority to require the submission of all data, including heat rate, fuel cost, and other cost and operating data, it needs from all market participants.

The MMU should issue monthly, quarterly and annual reports on the status of the markets. The MMU should have complete editorial control over its reports. As part of its ongoing evaluation of market efficiency and competitiveness, the MMU should evaluate and report on the performance of the RTO markets against the outcome of a market where all bids are at marginal cost. Also, the MMU should analyze and have the authority to independently file comments or testimony on the impact of mergers and acquisition on RTO and related markets. The MMU shall release all bid data, without masking the identity of the bidder, on a seasonal lag basis.

The MMU should have the authority to take deterrent action against market manipulation, such as telephone contact, letters to company executives, and publicizing misbehavior. The MMU should have the right, whether under Section 205 or 206⁴, to apply to FERC for market rule and market monitoring rule changes without prior Board approval. In emergency situations, the MMU should have the authority to make immediate changes to market rules and market monitoring rules. This authority may not be necessary if FERC has adopted a mechanism to address emergency rule changes on a very expedited schedule.

The MMU should have the authority to mitigate bids under a prescribed regimen or standard prior to accepting bids and finalizing prices. However, this authority would not obviate the need for bid caps and they should continue to be used as necessary.

The issue as to whether the MMU should have after-the-fact price mitigation authority is controversial and the state consumer advocate offices that are signatories to these comments have differing views on this issue. Some of the state consumer advocate

⁴ As noted on page 6 of these comments, some offices that are parties to these comments believe that the MMU should have Section 205 filing authority while others believe that such authority should fall under Section 206.

offices believe that the MMU should have the authority to flag prices within a limited time after their initial posting for potential corrective action by the MMU. They believe that there should be a requirement that the corrective action must be taken within a prescribed time based on a prescribed regimen or standard to determine market design flaws or market dysfunction.⁵ They further submit that this authority may not be necessary if FERC has established a mechanism to provide immediate relief from the effects of market design flaws or market dysfunction on a very expedited schedule.

Other state consumer advocate offices disagree that the MMU should have the authority to retroactively mitigate prices for market design flaws or market dysfunction after the market has cleared. They believe that markets require certain elements in order to function effectively, not the least of which is market certainty. These offices support the use of other tools to remedy such flaws and abuses, including filings to change market rules and market design, bid caps, before the fact mitigation of bids, cost capping of must-run units in load pockets, revisions to or termination of market based rate authority, Commission investigations and refunds, sanctions and penalties.

Regardless of which approach the Commission selects, all the state consumer advocate offices supporting these comments agree that the MMU or RTO must have the authority to make after-the fact price changes to correct computer or human errors.

⁵ However, these state consumer advocate offices recognize that the flagging of prices for corrective action by the MMU has the potential to cause difficulties for parties wishing to respond to prices by lowering their demand. Specifically, if there is a load-response program that compensates load for reduction of demand based on the locational price, load that is curtailed based on the original price might not be economic to curtail based on a lower, corrected price. If so, equity might require that load be compensated based on the original price even if the price is later changed. If the load-response program is based on a demand-bidding regimen, then demand bids dispatched on the basis of the original price should be paid their bids in those instances where the corrected clearing price is less than the bid amounts. For either program, such compensatory payments are appropriate means for promoting demand response that is beneficial to the system. In order to provide efficient price signals, such payments could be recovered from all load through an uplift charge separate from the corrected clearing price.

Finally, the MMU should have the authority to impose sanctions and penalties for failure to cooperate with the MMU in the performance of its duties, including compliance with the data requests of the MMU, and for manipulation of the market.

ITCs and RTOs

An ITC or Independent Transmission Company is a regulated transmission utility. Under current FERC regulations, the ITC is subject to cost-of-service fixed-rate-of-return rate-making as is any other utility operating transmission assets. The Commission has required in a Midwest ISO docket that an ITC may assume some of the responsibilities of an RTO if and only if it meets at least the independence characteristics of an RTO. *Commonwealth Edison Company, et al.*, Docket No. EL00-25-000, and *Midwest Independent Transmission System*, “Order Granting in Part Petition for Declaratory Order, Providing Guidance and Accepting Amendment for Filing” 90 FERC ¶ 61,192 (February 24, 2000). Northeast Consumer Advocates believe that the minimum requirements set forth in this order and the following principles should guide the Commission’s deliberations in approving ITCs and in allocating RTO functions between an ITC and an RTO.

First, the Commission should adhere to the principle first announced in the Midwest ISO docket discussed above that an ITC must meet FERC’s independence criteria before it is delegated any RTO functions. We believe that ITC governance structures should strictly adhere to the independence criteria laid out in Order No. 2000 and subsequent Commission orders applying that criteria to ISO and RTO filings

Second, any RTO functions that require regional perspectives to be effectively executed must remain with the RTO. For example, the delegation of authority in key areas such as market monitoring, operation of energy markets, economic dispatch,

congestion management, transmission planning, security coordination, calculation of Available Transmission Capacity (“ATC”), calculation of losses and transaction curtailments appears problematic since these functions require a regional level of oversight and control. Additionally, the potential for-profit character of an ITC may be at odds with fulfillment of public interest obligations in these areas. On the other hand, the delegation of authority with respect to aspects of transmission rate design and tariff administration, while necessarily subject to RTO oversight – are less problematic since they do not necessarily require the same regional scope to be performed effectively. However, even if the RTO assigns certain functions to the ITC, if there is a dispute, the RTO must have ultimate jurisdiction (notwithstanding the ITC’s right to seek redress at FERC under Section 206 of the FPA).

Third, as noted above, the RTO should perform regional planning. The ITC will participate in this exercise in the same manner as any other RTO stakeholder. Planning implications spill over from one transmission owner to another, therefore the ITC's planning should not dominate the RTO's planning process. In general, RTOs should be in a much better position to analyze regional costs and benefits from alternative network additions and modifications than smaller transmission owners, including an ITC. Further, having a uniform region-wide analysis should facilitate siting and need decisions regarding one project by state agencies in different states. Additionally, as noted above, the for-profit nature of an ITC will make its efforts to exercise independent judgment when assessing options for solutions to congestion difficult and subject the ITC to suspicion.

Conclusion

Northeast Consumer Advocates urge the Commission to adopt the principles addressed above with respect to governance, transmission planning, market monitoring and allocation of functions between ITCs and RTOs in the Northeast RTO proceedings at Docket No. RT01-99-000. Additionally, Northeast Consumer Advocates submit that these principles are appropriate to guide the Commission's deliberations in fashioning any future notices of proposed rulemaking for general applicability to the industry in Docket No. RM01-12-000. The Commission's primary responsibility is to protect consumer interests in reliable and reasonably priced electricity services. The standardized principles discussed above will ensure attainment of that goal while fostering the development of competitive wholesale electricity markets throughout the nation.

WHEREFORE, the Northeast Consumer Advocates respectfully request that the Commission adopt the standards and principles reflected in the foregoing comments.

Respectfully submitted,

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CERTIFICATE OF SERVICE

Re: Electricity Market Design and Structure
Docket Nos. RM01-12-000 and RTO1-99-000

_____I hereby certify that I have this date served the foregoing document upon each person designated on the official service list compiled by the Secretary in the above-referenced proceedings. Copies of this document have been served upon all parties designated on the Commission's official service list, in accordance with Rule 2010 of the Commission's Rules of Practice and Procedure.

Dated at Harrisburg, PA this 6th day of ~~December~~, December 2001.

Respectfully submitted,

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